

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIFFANY RECINOS,

Plaintiff,

v.

BUTTES HOMEOWNERS
ASSOCIATION et al.,

Defendants.

CASE NO. 3:23-cv-05780-LK

ORDER TO SHOW CAUSE

This matter comes before the Court sua sponte. Federal courts “have an independent obligation to determine whether subject-matter jurisdiction exists[.]” *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006). This determination is an “inflexible” threshold requirement that must be made “without exception, for jurisdiction is power to declare the law and without jurisdiction the court cannot proceed at all in any cause.” *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 577 (1999) (cleaned up). For the reasons discussed below, pro se Plaintiff Tiffany Recinos fails to adequately plead federal subject matter jurisdiction. Ms. Recinos must accordingly show cause

1 why the Court should not dismiss this action for lack of subject matter jurisdiction. *See* Fed. R.
2 Civ. P. 12(h)(3).

3 I. BACKGROUND

4 Ms. Recinos, who is proceeding *in forma pauperis* (“IFP”), initiated this action on August
5 29, 2023, alleging multiple repair and maintenance issues pertaining to her home and seeking a
6 new home “with new landscaping and new septic.” Dkt. No. 8 at 4–5 (capitalization altered and
7 underlining omitted); *see also* Dkt. No. 7 (granting IFP motion). In her complaint, she names the
8 following four Defendants: (1) Chance Kosko, “a citizen of the State of Washington,” (2) Buttes
9 Homeowner’s Association, (3) Total Property Management, and (4) Insurance Commissioner
10 Mike Kreidler; the latter three of which she alleges “are incorporated under the laws of the State
11 of Washington and ha[ve their] principal place[s] of business in the State of Washington.” Dkt.
12 No. 8 at 2–3. Ms. Recinos, who alleges she is also a citizen of Washington, thus cites to federal
13 question jurisdiction as the basis for the Court’s subject matter jurisdiction. *Id.* at 3. Specifically,
14 she asserts that “[t]he constitution protects property rights in the 4th, 5th, and 14th amendments.”
15 *Id.* (underlining omitted).

16 II. DISCUSSION

17 A. Ms. Recinos Fails to Plead Federal Question Jurisdiction

18 “Federal courts are courts of limited jurisdiction. They possess only that power authorized
19 by Constitution and statute[.]” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377
20 (1994). A district court is thus “presumed to lack jurisdiction in a particular case unless the contrary
21 affirmatively appears.” *Stock W., Inc. v. Confederated Tribes of the Coleville Rsrv.*, 873 F.2d 1221,
22 1225 (9th Cir. 1989). The party asserting jurisdiction has the burden of establishing it. *United*
23 *States v. Orr Water Ditch Co.*, 600 F.3d 1152, 1157 (9th Cir. 2010). Relevant here is 28 U.S.C.

1 § 1331, which grants district courts “original jurisdiction of all civil actions arising under the
2 Constitution, laws, or treaties of the United States.”

3 A plaintiff’s action “arises” under federal law when a federal law creates a particular cause
4 of action or the plaintiff requests relief under a state law that requires the interpretation of federal
5 law. *Republican Party of Guam v. Gutierrez*, 277 F.3d 1086, 1088 (9th Cir. 2002). “The presence
6 or absence of federal-question jurisdiction is governed by the well-pleaded complaint rule, which
7 provides that federal jurisdiction exists only when a federal question is presented on the face of
8 the plaintiff’s properly pleaded complaint.” *Id.* at 1089 (cleaned up). In other words, for this Court
9 to have subject matter jurisdiction over Ms. Recinos’ complaint pursuant to Section 1331, she must
10 allege a federal question on the face of her properly pleaded complaint—i.e., allege the federal law
11 or question implicated by her factual allegations. *See Merrell Dow Pharms. Inc. v. Thompson*, 478
12 U.S. 804, 809 n.6 (1986) (“Jurisdiction may not be sustained on a theory that the plaintiff has not
13 advanced.”).

14 Although the Court must construe a pro se litigant’s pleadings liberally, *see Ferdik v.*
15 *Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992), a plaintiff may not invoke the limited jurisdiction
16 of federal courts “so simplistically” as to merely allege violations of the United States Constitution.
17 *Yokeno v. Mafnas*, 973 F.2d 803, 807 (9th Cir. 1992). In this case, Ms. Recinos’ factual allegations
18 directed at her HOA all relate to the repair and maintenance of her home and sound in state tort
19 law. *See* Dkt. No. 1 at 4–5 (alleging, for example, that a “gas leak was allowed to continue for
20 almost a year,” which made her and her sons “sick,” and that a structural beam of the home “has
21 buckled from water damage” resulting in the “home’s interior now need[ing] to be redone”
22 (capitalization altered and underlining omitted)). Her vague and conclusory invocation of the
23 Fourth, Fifth, and Fourteenth Amendments is therefore insufficient to demonstrate federal question
24 jurisdiction. *See, e.g., Thompson v. Reed*, No. 6:22-CV-00600-AA, 2023 WL 4686103, at *3 (D.

Or. July 21, 2023) (“A plaintiff’s bare citation to the Constitution and vague and conclusory allegations fail to establish the requisite subject matter jurisdiction[] under the well-pleaded complaint rule.” (cleaned up)). Accordingly, Ms. Recinos’ complaint falls short of establishing subject matter jurisdiction.

B. Ms. Recinos Fails to Plead Diversity Jurisdiction

Section 1332(a)(1) requires complete diversity; that is, each plaintiff must be a citizen of a different state than each of the defendants. *See Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 553 (2005) (“[T]he presence in the action of a single plaintiff from the same State as a single defendant deprives the district court of original diversity jurisdiction over the entire action.”). Because Ms. Recinos, a citizen of Washington, brings this action against Defendants who she alleges are also citizens of Washington, she also fails to establish subject matter jurisdiction under Section 1332.

III. CONCLUSION

For the foregoing reasons, Ms. Recinos is ORDERED TO SHOW CAUSE within 21 days of the date of this Order why this Court has subject matter jurisdiction over this case. Failure to do so will result in dismissal of this action without prejudice. Her response may not exceed 10 pages. Attachments or amended pleadings are not permitted. The Court defers ruling on Ms. Recinos’ pending motions, Dkt. Nos. 12–14, and will take no further action in this case until she submits a response to this Order.

Dated this 15th day of September, 2023.



Lauren King
United States District Judge